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(Revised: Keith W. Pierce, January 16, 2004)

TO: Permit Section, District Air Leaders, Mary Oleson-SD/Air, Carol Crawford-LMD/Air, Craig Stemler-LMD/Air, Robin Capen-NCD/Air, Brad Erickson-La Crosse Area Office, Brett Ballavance-Superior Area Office, Mehrdad Moghimi-WD/Air, Dennis Antonie-SED/Air, and Jeff Burger-SED/Air.

FROM: Dan Johnston AM/7

SUBJECT: Enforcement of annual rolling averages for new or modified sources during the first year of operation.

This memo modifies the memo dated April 14, 1993. It has come to my attention that the Department of Justice is not taking cases which have annual rolling averages. They are taking cases which have monthly limits which are averaged over 12 consecutive months. I have deleted the language in the original memo pertaining to annual limits. Please begin using the new language immediately.

This guidance will apply to all attainment area and nonattainment area new or modified sources.

Many construction permits contain annual limits which are used to restrict the potential to emit (PTE) of certain pollutants. US EPA has developed guidance on how the PTE can be limited in the memo dated June 13, 1989, titled "limiting the potential to emit for new source review". If you don't have a copy of this EPA memo please let me know and I will send you one. In this memo I will be discussing how monthly limits can be averaged over any 12 consecutive months. Annual limits are not federally enforceable. See pages 9 & 10 in the EPA memo. To be federally enforceable annual limits must be based on a rolling average not to exceed 12 months. The 12 month rolling average must also be enforceable during the first year of operation.

The permit condition can be written several different ways to ensure that compliance can be determined during the first twelve months of operation. The concern is to ensure that during the first 12 months of operation enforceability can be determined at the end of each month of operation. Use one of the methods discussed here or contact me about other alternatives. Enforceability is very important now that we are issuing construction permits and operation permits. In many cases a new or modified source will be receiving an operation permit prior to completing 12 months of operation. When it is not possible to determine compliance during the first months of operation we could not issue the operation permit until after 1 year of operation. Since it may not be possible or feasible to wait 12 months after start of operation to issue the operation permit, it is important that the proposed language be incorporated in construction permits. When issuing an operation permit for a source which has been issued a construction permit and has been operating for longer than 12 consecutive months it will not be necessary to include the first 12 month compliance part of the condition in the operation permit. But when the source has not completed at least 12 consecutive months of operation, then the operation permit will need to have the first 12 month compliance language.

The EPA guidance allows for the PTE to be restricted by setting limits on the

production or operation of the source. In only special cases will EPA allow restrictions to be set on the emissions of a specific pollutant. These special cases are discussed on pages 7 & 8 of EPA's memo. Note that when VOC emissions are limited the source must calculate and keep daily records of the VOC emissions. The following examples are written assuming that usage limits are being set. When emissions are being restricted on a tons per month or annual rolling average limit then use the appropriate language.

The following examples are separated into 2 parts: the long term limit and the limit during the first 12 months of operation. These are all part of the same condition. They should not be set out as separate conditions. The only reason that they are separated out here is to clearly identify the separate parts.

MONTHLY LIMIT AVERAGED OVER 12 CONSECUTIVE MONTHS

The long term limit:

The gallons of coating used may not exceed XX gallons per month averaged over any 12 consecutive months.

The rolling average is justified because the company has a seasonal fluctuation in production. (s. 285.394(3) or (7), Wis. Stats. {whichever citation is appropriate})

The limit during the first 12 months of operation :

Note:

Compliance with this condition during the first 12 months of operation after this permit is issued shall be determined by using the following method:

Option one:

In the first month of operation, the usages shall be the actual number of gallons used for the first month not to exceed XX gallons. After the second month, the average usage shall be determined to be the total number of gallons used for the last two months divided by two not to exceed XX gallons. After the third month, the average usage shall be determined to be the total number of gallons used during the last three months divided by three not to exceed XX gallons. This method of determining the average monthly usage shall be used for the first 12 months of operation. On the 13th month and beyond, the total number of gallons used in the last 12 months shall be divided by 12 to arrive at the monthly usage averaged over any 12 consecutive months not to exceed XX gallons. (s. 285.394(3) or (7), Wis. Stats. {whichever citation is appropriate})

Other options:

Some sources may have startup and initial operation circumstances where the above mentioned compliance method will not be feasible. In that case set a compliance determination technique which will apply to that source which allows for determination of compliance on a short term basis not to exceed a month.

ANNUAL LIMITS NOT TO BE USED:

Do not use this language:

The gallons of coating or pounds of raw material may not exceed XX gallons/pounds in any 12 consecutive months.

cc: Tom Steidl LC/5
Marcia Penner LC/5
Mike Scott LC/5

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